

State of California
AIR RESOURCES BOARD

Resolution 98-19

May 21, 1998

Agenda Item No.: 98-5-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCM) for toxic air contaminants in accordance with specified criteria;

WHEREAS, on February 18, 1988, the Board adopted section 93102 of Title 17, California Code of Regulations, Hexavalent Chromium Airborne Toxic Control Measure - Decorative and Hard Chrome Plating and Chromic Acid Anodizing Facilities (Chrome Plating ATCM), to reduce emissions of hexavalent chromium, a known human carcinogen, from chrome plating and chromic acid anodizing operations;

WHEREAS, on January 25, 1995, the United States Environmental Protection Agency (U.S. EPA) promulgated the National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (Chrome Plating NESHAP) (40 Code of Federal Regulations Part 63, subpart N), a regulation that is similar to the existing Chrome Plating ATCM;

WHEREAS, the federal Clean Air Act provides a mechanism to allow states to substitute their own equivalent rules or programs for the corresponding federal requirements (section 112(l));

WHEREAS, section 39659 of the Health and Safety Code provides that the Board may adopt regulations which: 1) impose monitoring requirements, establish procedures for permits, and take any other action that may be necessary to establish, implement, and enforce programs for the regulation of hazardous air pollutants which have been listed as toxic air contaminants pursuant to subdivision (b) of section 39657, and 2) meet the requirements of subsection (l) of section 112 of the federal Clean Air Act (42 U.S.C. Secs. 7412(l)) and the guidelines and regulations promulgated by the U.S. EPA pursuant to those sections; and in adopting such regulations, the Board is required to the extent necessary to ensure that the requirements of the federal Clean Air Act are met, to use the definitions contained in subsection (a) of section 112 of the federal Clean Air Act (42 U.S.C. Sec. 7412(a));

WHEREAS, the purpose of the proposed amendments is to integrate California's requirements for chrome plating operations and the federal chrome plating requirements so that the Chrome Plating ATCM will be approved by the U.S. EPA as a substitute for the Chrome Plating NESHAP;

WHEREAS, the staff has worked closely with the districts, affected sources, and U.S. EPA to develop an amended Chrome Plating ATCM that will satisfy both the existing State requirements and the federal requirements;

WHEREAS, the proposed amended Chrome Plating ATCM was developed through discussions of draft versions made available to the public for review and comment at public meetings on November 19 and 21, 1996, and February 24, 1998;

WHEREAS, in accordance with Health and Safety Code section 39665 (c), the staff report and proposed amendments to the Chrome Plating ATCM were made available for public review and comment 45 days prior to the public hearing to consider the proposed amendments;

WHEREAS, as a result of further analysis and comments received during the public comment period, the staff has proposed several changes to the draft regulations initially made available for public comment;

WHEREAS, the Board has considered the impact of the proposed amendments on the economy of the State;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, based on the information presented by staff and the written and oral comments received prior to and at the hearing, the Board finds that:

1. The amendments are proposed primarily to integrate the State and federal requirements for chrome plating operations and include expanding the applicability to trivalent chrome operations, replacing the emission limitations for decorative chrome and chromic acid anodizing operations with the emission limitations from the Chrome Plating NESHAP, and incorporating performance test requirements, inspection and maintenance requirements, monitoring provisions, and recordkeeping and reporting requirements that mirror the Chrome Plating NESHAP provisions.

2. The emissions from chrome plating operations have already been substantially reduced through compliance with the existing Chrome Plating ATCM and may be further reduced through compliance with the 45-dynes per centimeter surface tension limitation for decorative chrome platers.
3. Chrome plating operations in California are subject to two similar regulations which present a burden to the facility operators by requiring expenditure of additional resources for compliance with recordkeeping, reporting and monitoring provisions with no significant additional emissions reduction benefit.
4. Adoption of the proposed amendments to the Chrome Plating ATCM will incorporate provisions that are necessary for the U.S. EPA to be able to approve the Chrome Plating ATCM as the substitute for the Chrome Plating NESHAP.
5. The economic and cost impacts of the amendments have been analyzed as required by California law, and the analysis of these impacts is set forth in the Staff Report for this regulatory action.
6. Adoption of the proposed amendments to the Chrome Plating ATCM will not result in any significant adverse environmental impacts.
7. No alternative considered would be more effective at carrying out the purpose for which the amendments to the Chrome Plating ATCM are proposed, or be as effective and less burdensome to the affected private persons than the amendments as proposed.
8. The amendments should be adopted as emergency regulations and implemented immediately in order to preserve the general welfare by saving public and private resources and minimizing the cost and burden on sources.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section 93102, Title 17, California Code of Regulations, as set forth in Attachment A, with the modifications to the originally proposed text as set forth in Attachment B hereto, as an emergency regulation which shall be effective immediately.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to submit the amended Chrome Plating ATCM to the Office of Administrative Law (OAL) as an emergency regulation.

BE IT FURTHER RESOLVED that the Board directs the staff to submit the amended Chrome Plating ATCM to U.S. EPA for approval as the substitute for the Chrome Plating NESHAP.

BE IT FURTHER RESOLVED that during the 120-day period that the emergency regulation is legally effective, the Board directs the Executive Officer to complete all administrative requirements specified in the Administrative Procedure Act to ensure that the Chrome Plating ATCM will be reviewed and approved by OAL as a non-emergency submission, including but not limited to adopting section 93102, Title 17, California Code of Regulations after making the modified regulatory language available for public comment for a period of at least 15 days; provided that the Executive Officer shall consider such written comments regarding the modification as may be submitted during this period, shall make modification as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the staff to inform the air pollution control and air quality management districts of the amendments to the Chrome Plating ATCM, and to provide technical assistance to the districts in implementing the amended Chrome Plating ATCM.

I hereby certify that the above is a true and correct copy of Resolution 98-19, as adopted by the Air Resources Board.

Pat Hutchens, Clerk of the Board

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Identification of Attachments to the Resolution

- Attachment A: Proposed amendments to sections 93102, Title 17, California Code of Regulations, as set forth in the Initial Statement of Reasons.
- Attachment B: Staff's Suggested Changes to the Original Proposal (distributed at the Board hearing on May 21, 1998).